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REMARKS/ARGUMENTS

Lead lines are those lines drawn between reference characters and the details referred to. Each lead line must originate in the immediate proximity of a reference character and extend to the feature indicated. This has been used in the drawings in identifying the vehicle sideloading elevator platform with reference character "10", and the transport mechanism with reference character "20" in the drawings. In each drawing where both reference characters appear, reference character "20" is always located closer to the transport mechanism which it designates than is reference character "10". In the drawings, reference character "10" is further away from the overall structure depicted than any other reference character because it designates the entire vehicle sideloading elevator platform. This is consistent with the use of lead lines and reference characters specified in MPEP §602.02 (see also 37 CFR §1.84 (p) (q)) describing requirements for reference characters and lead lines.

The Examiner objects to the drawings because reference character "70" is not mentioned in the Detailed Description of the Invention. Reference character "70" has been removed from FIGS. 1, 4 and 5, the only figures in which this reference character appears. The Detailed Description has been amended to discuss the chain brackets used for engaging and supporting the lift platform 22 when in the nonuse, stored configuration, where one of the chain brackets is identified by reference character "80" in FIG. 3. In FIGS. 1 and 3-9, reference character "78" has been changed to "78a". Reference character "60" has been changed in FIGS. 8 and 9 to "60a". FIG. 10 has been revised to correctly identify reference "44b" as the second track assembly and reference "46b" as a

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roller. This element identification is consistent with FIG. 11. In addition, reference character "46c" has been removed from FIGS. 10 and 11, as it is not discussed in the detailed description. The description of FIG. 12 in the detailed description on page 10, lines 11-14, has been revised so as to discuss pivot pins 62a, 62b and 64a, 64b shown in FIG. 12. Similarly, the detailed description has been revised on page 9, line 12 - page 10, line 10, to specifically discuss links 52a, 52b and 54a, 54b also shown in FIG. 12. Replacement sheets for revised FIGS. 1 and 3-11 are attached hereto. Also attached are copies of revised FIGS. 1 and 3-11 on "Annotated Sheets" which are marked in red to show the changes made in the replacement sheets.

The specification stands objected to as including various informalities. These informalities have been corrected and revised pages of the specification are attached hereto. It is believed that all of the Examiner's objections are addressed and resolved in these revised specification pages. Claims 1, 2, 4, 5 and 11 have been amended in response to the Examiner's objections. However, claim 10 has not been amended because claim 10 refers to the folded and extended positions of a ramp pivotally coupled to the platform, while claim 1 refers to the folded and unfolded configurations of the platform itself.

Claim 1 has been amended so as to recite a subcombination. Thus, amended claim 1 now recites "For use in a cargo trailer....., an apparatus comprising:.....". Reference to "an arrangement for loading cargo on or off-loading cargo from said trailer" has been deleted from the preamble of claim 1 because this is what the "apparatus" does as recited in the body of claim 1. Dependent claims 2-10 have also been amended to recite "The apparatus", rather than "The

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arrangement”. Regarding claim 11, the Examiner objects to the recitation “a lower portion” in line 3 as rendering the claim unclear. The Examiner also alleges that the recitation of “disposed below and mounted to the vehicle” on line 5 also renders this claim unclear. However, Applicant’s invention is not limited to having the recited “rail assembly” or the “carriage” disposed either interiorly or exteriorly relative to the vehicle, as the rail assembly could be easily adapted to be disposed within the vehicle and to extend, or have the carriage attached to the rail assembly extend, through a lower portion of the vehicle to permit the first hydraulic cylinder disposed below and mounted to the vehicle to displace the carriage.

Claims 1-8 stand rejected under 35 USC §103 (a) as being unpatentable over U.S. Patent No. 4,579,503 to Disque in view of U.S. Patent No. 4,991,890 to Paulson, and further in view of U. S. Patent No. 3,113,684 to Novotney. Claim 9 stands rejected under 35 USC §103 (a) as being unpatentable over Disque in view of Paulson and Novotney as applied to claim 1, and further in view of U.S. Patent No. 4,007,844 to Perkins. Claims 10 and 11 stand rejected under 35 USC §103(a) as being unpatentable over Disque in view of Paulson and Novotney as applied to claim 1, and further in view of U.S. Patent No. 6,183,187 to Ablabutyan.

The patent to Disque discloses a sideloader elevator platform 10 having left and right hydraulic motors 28 and 29 disposed on the underside of a truck body 18 adjacent the respective opposed sidewalls of the truck body. These two hydraulic motors 28, 29 are each attached to a respective end of first and second parallelogram linkages 14 and 15. The other ends of these parallelogram linkages 14 and 15 are pivotally coupled to an inner edge portion of the main

platform 70 of the platform assembly 11. Extension of the first and second hydraulic motors 28, 29 raises the platform assembly 11, while retraction of these two hydraulic motors lowers the platform assembly. The first and second parallelograms linkages 14, 15 of Disque are not “angled”, but rather are linear structural members, tapered at a first end and generally flat at a second, opposed end. As shown in FIG. 4, the platform assembly 11 is moved to the raised position by the extension of the first and second hydraulic motors 28, 29 when the sideloader elevator platform 10 is in the extended position. The sideloader elevator platform 10 is moved between the extended position and the retracted position shown in FIG. 2 by means of the combination of a drive motor 24 with a drive sprocket 66 and a drive chain 25 attached to a bottom portion of a truck bed 19. The drive motor 24 and drive sprocket 66 combination is disposed in a carriage assembly 12 attached to and supported by a pair of linear rails 16 and 17 attached to a lower surface of the truck bed 19. The spaced carriage rails 16, 17 allow the carriage assembly 12 to be moved along the bottom of the truck bed 19 between opposed lateral sides of the vehicle body 18 in response to rotation of the drive sprocket 66 which engages drive chain 25. A drive mechanism 23 moves the platform assembly 11 and carriage assembly 12 between a retracted position wherein the sideloader elevator platform 10 is disposed entirely beneath the truck body 18 as shown in FIG. 2, and in extended position wherein the sideloader elevator platform extends outwardly from a lateral portion of the truck body 18 as shown in FIG. 3.

The sideloader elevator platform 10 of Disque requires a complicated drive mechanism comprised of numerous parts including drive motor 24 with a drive shaft, drive and idler sprockets

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66, 67, a drive chain 25, and a carriage assembly 12 requiring a large housing. The large carriage housing reduces the clearance height below Disque's truck body 18, and the complexity of the drive arrangement increases its cost. The claimed invention employs a single hydraulic cylinder 40 for moving the lift platform 22 between the retracted, nonuse position and the extended, use position. Disque's drive chain 25 is susceptible to breakage and contamination from road debris, unless it is perhaps protected by its own housing which would further increase the cost and complexity of the installation. In addition, the Disque sideloader elevator platform 10 requires a pair of hydraulic motors 28 and 29 for raising and lowering the platform assembly 11. The claimed invention requires only a single hydraulic cylinder for raising and lowering the sideloading elevator platform. The Disque sideloader elevator platform 10 also includes a complicated linkage arrangement including a pair of parallelogram linkages 14 and 15 each having a respective upper tension arm 86 and lower compression arm 89, each of which is pivotally coupled at a first end to the carriage 13 and at a second, opposed end to the platform assembly 11. See column 4, line 53, - column 5, line 21. The claimed invention requires only a pair of angled arms connected between the transport mechanism and the lift platform. Finally, each of Disque's hydraulic motors 28 and 29 is pivotally coupled to an end of a respective parallelogram linkage 14 and 15 as shown in FIGS. 2, 3 and 4. In the claimed invention, however, the second hydraulic cylinder is coupled to an intermediate portion of each of the angled arms for raising and lowering the platform. Connecting the lift hydraulic cylinder to intermediate portions of the two angled arms in Applicant's invention reduces the length of Applicant's sideloading elevator platform, making it more compact and, thus,

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easier to install beneath the trailer body. The claimed lift mechanism-lift arm coupling arrangement also reduces the distance required to move the sideloading elevator platform between the stored, nonuse and extended, use positions. As shown in FIGS. 2 and 3 in Disque, this sideloader elevator platform 10 must travel the entire width of the truck body between the retracted and extended positions.

The patent to Paulson discloses a tail gate assembly 18 for a motor vehicle frame 12 wherein a foldable tailgate 22 is raised and lowered by means of a hydraulic cylinder 30 pivotally coupled to the tailgate at a first end and to a flange 32 attached to the motor vehicle frame at a second, opposed end. Paulson includes a retractable bumper bar 34 to generate a detector signal which causes the automatic application of the vehicle's brakes when the vehicle is backed into an obstruction. Bumper bar 34 swings out of the path of the tailgate 22 into a position beneath the vehicle frame 12 so as not to interfere with the operation of the tailgate system as shown in FIGS. 1 and 4. In Paulson, the lift mechanism is fixedly mounted to a lower portion of the motor vehicle frame 12 because it is attached to the vehicle's tailgate 22. In addition, the hydraulic cylinder 30 which raises and lowers the tailgate 22 is pivotally connected to the tailgate 22 by a bracket 24 fixedly connected to the tailgate and not by an arm used to raise and lower the tailgate.

The patent to Novotney is also directed to a fixed arrangement for raising and lowering a tailgate platform 10 mounted at the rear of a truck frame 11. The advantage of the Novotney lift gate platform installation is in its use of a pintle hook 36 attachment for use with the lift gate mechanism for transferring a towing load from the lift gate mechanism to the frame of the truck

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when the lift gate is in the upright closed position. See column 1, lines 8-17. The Novotney arrangement includes the combination of a hydraulic cylinder 15 and a first pair of outer arms 12 and a second pair of inner arm members 13 forming a parallelogram linkage arrangement as in Disque for raising and lowering the lift gate platform 10. See column 1, line 71-column 2, line 10. In Novotney, the hydraulic cylinder 15 is not connected to either the outer arm members 12 or the inner arm members 13. Rather, the Novotney hydraulic cylinder 15 is connected at one end to a cross head 25 and at a second opposed end to a cross member 27 as shown in FIG. 1. See column 2, lines 16-24. Thus, in Novotney the hydraulic cylinder is not connected to any of the lift arms, but rather is connected at one end to a cross head 25 trunnioned on parallel spaced arms 26 spaced inwardly from the two inner arm members 13 and is connected at its second, opposed end to the cross member 27 connecting the arm members 13 together. The hydraulic cylinder in Novotney is not connected to any of the lift arms, much less to an intermediate portion of any of the lift arms. The Novotney installation is much more complicated than Applicant's claimed vehicle sideloading elevator platform and lift arrangement requiring plural pairs of lift arms connected to plural cross members.

The patent to Perkins discloses a manually operated, self folding platform which does not incorporate a hydraulic cylinder, nor does it include a pair of arms for raising and lowering the folding platform. There is no structure in the Perkins self folding platform connected to a lower portion of the vehicle's bed. There is no suggestion in Perkins that the chains 33 used for maintaining the folding platform in the horizontally extending, load bearing position could be

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adapted for use in maintaining another, completely different platform arrangement in the folded configuration for transport, as recited in claim 9.

The patent to Ablabutyan discloses a lift and tow hitch system for attachment to a vehicle chassis, wherein the tow hitch is recessed no more than six inches from the rearmost extremity of either the vehicle chassis or the lift gate when the lift gate is stowed. This facilitates use of this system in the towing mode when the lift gate is stowed. This patent also does not include the claimed transport mechanism for a lift platform attached to a cargo trailer, nor does it suggest the structure of the platform lift mechanism recited in the pending claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or references when combined, must teach or suggest all the claimed limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and must not be based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). There is no suggestion in any of the three primary references of Disque, Paulson and Novotney to combine it with either of the other two references. Disque discloses a vehicle sideloader elevator platform, while Paulson and Novotney are directed to tailgates. In Disque, the hydraulic cylinder is coupled to a support arm of the lift platform, while in Paulson the hydraulic cylinder is connected to the lift platform

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itself and in Novotney the hydraulic cylinder is not connected to either the lift platform or a support arm. Not only is there no suggestion in any of these references to combine it with any other reference, but there is also no reasonable expectation of success in any reference that it could be successfully combined with another reference to arrive at the claimed invention. Integral to the structure of the Paulson lift platform structure is its bumper assembly 20 which is designed to provide a detector signal for automatically applying the brakes to protect against backing into obstructions. But this would have no purpose or application in the Disque sidloader elevator platform and could not be combined with Disque because the moveable Paulson bumper assembly would prevent movement of the Disque carriage assembly 12. Novotney has a single hydraulic lift cylinder 15 located at the center of the lift gate mechanism, while Disque has a pair of hydraulic motors 28 and 29 each disposed adjacent a respective lateral edge of the platform assembly 11. Thus, there is no suggestion in either Disque or Novotney to combine it with the other because these two references teach away from one another and their combination would be impractical and commercially unacceptable. The Examiner relies upon arm members 12 and 13 and the single hydraulic cylinder 15 in Novotney, but the hydraulic cylinder is coupled to the arm members by a complicated arrangement including cross head 25, parallel spaced arms 26, and cross member 28. This complicated arrangement could not be used with either of the hydraulic cylinders in Disque and it is apparent that these two approaches could not be combined as suggested by the Examiner to possibly arrive at the claimed invention.

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A showing of a suggestion, teaching, or motivation to combine the prior art references is an essential component of an obviousness holding. See *In re Lee*, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). Moreover, the Examiner can satisfy the requirements for a showing of obviousness of a combination only by showing some objective teaching in the prior art, or knowledge generally available to one of ordinary skill in the art, that would lead that individual to combine the relevant teachings of the references. *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). There is no suggestion in any of these three cited references of the use of a hydraulic cylinder for moving a transport mechanism to which a lift platform mounted to a trailer is connected between a retracted position for transport of the trailer and an extended position for using the platform to receive and support cargo. Finally, even if these three references were combined, as suggested only by the Examiner and not by either of these individual references, the resulting combination would lack the advantage in a trailer-mounted cargo lift platform of connecting a hydraulic cylinder to intermediate portions of a pair of arms used for raising and lowering the platform. The combination of references relied upon by the Examiner must disclose all of the claimed elements in an obviousness rejection. *Motorola v. Interdigital Technology Corp.*, 43 USPQ2d 1481, 1490 (Fed. Cir. 1997). Because this is not the case here, the §103(a) rejection based on Disque, Paulson and Novotney must fail.

The initial burden is on the Examiner to provide some suggestion in the prior art of the desirability of doing what the inventor has done. In the present rejection, the Examiner has merely located three isolated references which allegedly disclose separate portions of Applicant's

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invention. The Examiner has failed to provide any support that any of the cited references expressly or impliedly suggest the claimed invention. More specifically, none of these references disclose in a sideloading elevator platform for a vehicle the use of a hydraulic cylinder for moving a transport mechanism to which the elevator platform is connected between a retracted position for transport of the vehicle and an extended position for using the elevator platform to receive and support cargo. Nor do any of these three references disclose the use of a second hydraulic cylinder coupled to intermediate portions of a pair of lift arms connected to the elevator for raising and lowering of the platform. None of these references disclose these essential features of the claimed invention and thus this combination of references does not qualify as the basis for a §103 rejection. Nor has the Examiner presented a convincing line of reasoning as to why one skilled in the art would have found the claimed invention to have been obvious in light of the teachings of the references themselves. The Examiner is required to set forth a convincing line of reasoning leading to the obvious combination of the cited references. *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

U.S. Patent Nos. 4,007,844 to Perkins and 6,183,187 to Ablabutyan are relied upon by the Examiner as secondary references and are even less relevant to the claimed invention than the three references discussed above. For example, the chains 33 in Perkins relied upon by the Examiner are used to support the platform section 30 in the extended configuration as shown in FIGS. 1 and 5 and not in the folded configuration as recited in claim 9. Ablabutyan incorporates a hydraulic cylinder 36 in a lift gate installation, but this invention is directed to the incorporation of

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a tow hitch 20 in the lift gate installation for pulling additional loads.

With this amendment, all of the pending claims are believed to define patentable subject matter. Therefore, reconsideration and allowance of the pending claims is respectfully solicited.

Respectfully submitted,

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